

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

REC'D 29 NOV 2005

PCT WIPO PCT

To:
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WASHINGTON, DC 20004

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

23 NOV 2005

Applicant's or agent's file reference

61049-0021WO

Date of mailing
(day/month/year)

FOR FURTHER ACTION

See paragraph 2 below

International application No.

PCT/US04/20870

International filing date (day/month/year)

30 June 2004 (30.06.2004)

Priority date (day/month/year)

30 June 2003 (30.06.2003)

International Patent Classification (IPC) or both national classification and IPC

IPC(7): E05D 7/00; E05D 5/02 and US Cl.: 16/354, 387

Applicant

BAER, AUSTIN

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☒ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US
Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
Facsimile No. (703) 305-3230

Date of completion of this opinion
07 October 2005 (07.10.2005)

Authorized officer
Chuck Mah
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/20870

Box No. 1 Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of:

- ☒ the international application in the language in which it was filed
☐ a translation of the international application into _____, which is the language of a translation furnished for the purposes of international search (Rules 12.3(a) and 23.1(b)).

2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:

a. type of material

- ☐ a sequence listing
☐ table(s) related to the sequence listing

b. format of material

- ☐ on paper
☐ in electronic form

c. time of filing/furnishing

- ☐ contained in the international application as filed.
☐ filed together with the international application in electronic form.
☐ furnished subsequently to this Authority for the purposes of search.

3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table(s) relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/US04/20870

Box No. IV Lack of unity of invention

1. ☒ In response to the invitation (Form PCT/ISA/206) to pay additional fees the applicant has, within the applicable time limit:
- ☒ paid additional fees
 - ☐ paid additional fees under protest and, where applicable, the protest fee
 - ☐ paid additional fees under protest but the applicable protest fee was not paid
 - ☐ not paid additional fees
2. ☐ This Authority found that the requirement of unity of invention is not complied with and chose not to invite the applicant to pay additional fees.
3. This Authority considers that the requirement of unity of invention in accordance with Rule 13.1, 13.2 and 13.3 is
- ☐ complied with
 - ☒ not complied with for the following reasons:
See the lack of unity section of the International Search Report (Form PCT/ISA/210)

4. Consequently, this opinion has been established in respect of the following parts of the international application:

- ☒ all parts.
- ☐ the parts relating to claims Nos. _____

WRITTEN OPINION OF THE
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International application No.
PCT/US04/20870

Box No. V Reasoned statement under Rule 43 bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)

Claims Please See Continuation Sheet YES

Claims Please See Continuation Sheet NO

Inventive step (IS)

Claims Please See Continuation Sheet YES

Claims Please See Continuation Sheet NO

Industrial applicability (IA)

Claims Please See Continuation Sheet YES

Claims Please See Continuation Sheet NO

2. Citations and explanations:

Claims 3-8, 12-15, 17-24, 31, 33-40, 42, 43, 45, and 47-51 lack novelty under PCT Article 33(2) as being anticipated by McKinney (1,097,458). McKinney shows a first leaf having a base portion 2, a mounting portion 12, two rows of vertically extending holes with reinforcement 16, a second leaf 3 having a base portion 8, a mounting portion 14 and two rows of holes 16 (one row extending horizontally and the other extending transversely).

Claims 1-52 lack an inventive step under PCT Article 33(3) as being obvious over Baer (5,778,491) in view of McKinney (1,097,458). Baer '491 discloses the invention as claimed but for the cavity between the base portion and the reinforcement disposed proximate to the holes. McKinney teaches a hinge leaf having a cavity between the base portions and reinforcement disposed around the conical holes to stiffen the body and to form a bearing surface for the hinged object. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the hinge leave of Baer with the cavity and reinforcement as taught by McKinney to stiffen the leaf body and to provide a bearing surface for the hinged object.

As to claims 11, 16, 25-26, 32, 41, 44, 46 and 52, it would have been obvious to one having ordinary skill in the art to choose the specific metal or screws to form or attach the hinge leave, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

As to claims 2 and 27, the width of the closed hinge and the depth of the conical surface would have been obvious matter of design choice since as such involves only routine skill in the art where the general conditions of a claim are disclosed in the prior art.

Claims 1-52 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.

**WRITTEN OPINION OF THE
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International application No.
PCT/US04/20870

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V.1. Reasoned Statements:

The opinion as to Novelty was positive (Yes) with respect to claims 1, 2, 9-11, 16, 25-30, 32, 41, 44, 46 and 52
The opinion as to Novelty was negative (No) with respect to claims 3-8, 12-15, 17-24, 31, 33-40, 42, 43, 45, 47-51
The opinion as to Inventive Step was positive (Yes) with respect to claims NONE
The opinion as to Inventive Step was negative (NO) with respect to claims 1-52
The opinion as to Industrial Applicability was positive (YES) with respect to claims 1-52
The opinion as to Industrial Applicability was negative (NO) with respect to claims NONE